# WEST VIRGINIA LEGISLATURE

Regular Session, 2003

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# ENROLLED

Committee Substitute for

# SENATE BILL NO. ___450___

(By Senators Tomblin, Mr. President, and Sprouse,
By Request of the Executive)

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PASSED ___March 5, 2003___

In Effect ninety days from Passage

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

# Senate Bill No. 450

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed March 5, 2003; in effect ninety days from passage.]

AN ACT to amend chapter eleven of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article ten-c,
relating to creation, development and funding of an auto-
mated tax administration system; setting forth legislative
findings and purpose; authorizing contracts to finance and
acquire automated tax administration system and associated
products and services; requiring reports to joint committee
on government and finance; expiring authority to enter into
certain contracts; specifying methods of payment for system;
requiring determination of increase in the amount of taxes,
interest and penalties collected which is attributable to
successful implementation of the automated tax administra-
tion system and reports; creating special revenue fund and
providing amounts to be deposited into fund; providing

purposes for which moneys of the fund are to be expended; excluding from deposit moneys derived for local or municipal subdivisions; requiring annual report; and repeal of article.

*Be it enacted by the Legislature of West Virginia:*

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-c, to read as follows:

**ARTICLE 10C.  BENEFITS-FUNDED PURCHASING.**

## §11-10C-1.  Legislative finding; short title and purpose.

 1    The Legislature hereby finds that creation, development,
 2    acquisition and maintenance of an automated tax admin-
 3    istration system by the tax division of the department of
 4    tax and revenue are crucial to efficient operation of state
 5    government and in the best interests of the people of West
 6    Virginia; that the accuracy, efficiency and cost effective-
 7    ness of an automated tax administration system will
 8    benefit the people of West Virginia through cost savings,
 9    more efficient tax administration and more uniform and
10    effective application of the tax laws of the state.

11    This article shall be known as the "Benefits-funded
12    Purchasing Act" and is hereby established by the Legisla-
13    ture for the purpose of creating, developing and maintain-
14    ing an automated tax administration system by the tax
15    division of the department of tax and revenue.

## §11-10C-2.  Authorization of benefits-funded automated tax administration system purchasing program; reports; expiration of authority.

 1    (a) The tax commissioner is hereby authorized to enter
 2    into contracts to finance and acquire an automated tax
 3    administration system and associated computer hardware
 4    and software for use in the registration of taxpayers,
 5    processing of remittances and returns and collection of

6    delinquent taxes and any interest and penalties thereon
7    and for general tax administration. The tax commissioner
8    is further authorized to acquire the technical services and
9    related services necessary to develop, implement and
10   maintain such system and associated computer hardware
11   and software.

12   (b) Prior to entering into any contract authorized by this
13   article, the tax commissioner shall provide to the joint
14   committee on government and finance a copy of the
15   contract and a report setting forth a detailed summary of
16   the terms of the contract, including the estimated amounts
17   of vendor payments and other terms of financing antici-
18   pated under the contract and the date upon which vendor
19   payments will end under the contract, and a description
20   and the cost of the technical services and related services
21   the tax commissioner determines is necessary to develop,
22   implement and maintain the system and associated
23   hardware or software to be acquired under the contract.

24   (c) The authority of the tax commissioner to enter into
25   contracts to finance and acquire an automated tax admin-
26   istration system expires the thirtieth day of June, two
27   thousand five. The expiration of that authority does not
28   affect the authority of the tax commissioner to enter into
29   contracts to maintain an automated tax administration
30   system acquired pursuant to this section, including
31   contracts for the acquisition of associated hardware,
32   software or services after meeting the requirements of
33   subsection (b) of this section.

### §11-10C-3. Benefits funding.

1    Notwithstanding any provision of article three, chapter
2    five-a of this code or any other provision of this code to the
3    contrary, payment of costs and compensation for the
4    automated tax administration system, related hardware,
5    software and services may be computed and paid: (1) On
6    the basis of a percentage of the increase in the amount of
7    taxes, interest and penalties collected which is attributable

8   to implementation of the automated tax administration
9   system, as may be described in detail by contract; or (2) on
10  a fixed-fee contract basis, such fees to be paid from the
11  increase in the amount of taxes, interest and penalties
12  collected which is attributable to implementation of the
13  automated tax administration system, as may be described
14  in detail by contract.

**§11-10C-4. Monthly determination of increased revenue attributable to automated tax administration system; monthly report; deposit of moneys; creation and operation of automated tax administration system development fund; annual report.**

1   (a) *Revenue increment, fund created, operation of*
2  *fund.* –

3   (1) The tax commissioner shall determine monthly the
4  total amount of increased revenue attributable to the
5  successful implementation of the automated tax adminis-
6  tration system under this article and the amount shall be
7  paid into the state treasury and deposited to the credit of
8  a special fund known as the "Automated Tax Administra-
9  tion System Development Fund" which is hereby created.
10  The tax commissioner is authorized to use moneys depos-
11  ited in the automated tax administration system develop-
12  ment fund to pay vendors of hardware, software or
13  services pursuant to the terms of contracts created in
14  accordance with this article. All moneys in excess of that
15  required to be paid to the vendors, as determined by the
16  tax commissioner, shall be transferred to the general fund:
17  *Provided,* That all moneys in excess of seven hundred fifty
18  thousand dollars remaining in the fund at the end of each
19  fiscal year shall be transferred to the general fund.

20  (2) The total monthly amount of increased revenue
21  attributable to the successful implementation of the
22  automated tax administration system as determined by the
23  tax commissioner and the basis for the determination shall

24    be reported to the joint committee on government and
25    finance within ten days following the determination.

26    (b) *Treatment of local moneys.* —

27    (1) The amount of the local moneys derived from any tax
28    imposed under this code which is directed or dedicated to
29    local or municipal subdivisions shall not be deposited in
30    the automated tax administration system development
31    fund, but shall be paid undiminished, including any
32    increase resulting from implementation of the automated
33    tax administration system, to the local or municipal
34    subdivision to which it is directed or dedicated by law.
35    Local or municipal moneys shall be deposited, as directed
36    by law, in those funds designated for orderly distribution
37    of revenues to local or municipal subdivisions.

38    (2) For purposes of this section, the total amount of
39    increased revenue attributable to the successful implemen-
40    tation of an automated tax administration system for
41    purposes of determining the amount to be deposited in the
42    automated tax administration system development fund
43    and the amount of any benefits-funded payments to
44    vendors under this article shall be determined after
45    subtraction of any tax revenues payable to a local or
46    municipal subdivision under this code.
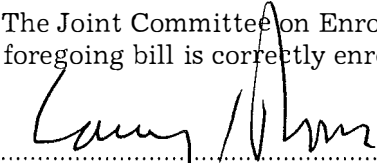
47    (c) *Reports.* — Prior to the fifteenth day of January of
48    each year, the tax commissioner shall submit a report to
49    the governor, the president of the Senate and the speaker
50    of the House of Delegates.  The report shall include
51    detailed information on the costs and benefits of imple-
52    menting the automated tax administration system pursu-
53    ant to this article during the fiscal year immediately
54    preceding the submission of the report. The report shall be
55    made until two complete fiscal years have elapsed follow-
56    ing payment in full for the acquisition of the automated
57    tax administration system by the tax commissioner.

58 (d) *Other contracts and purchases not prohibited or*
59 *hindered.* – This article shall not be construed to prohibit
60 or hinder the tax commissioner from acquiring any goods
61 or services for any tax division function or program not
62 specifically included in any contract entered into pursuant
63 to this article.

### §11-10C-5. Transfer of funds; repeal of article.

1 At the end of fiscal year two thousand thirteen, all
2 moneys in the automated tax administration system
3 development fund shall be transferred to the general fund
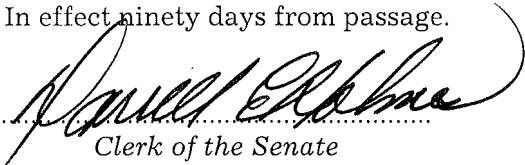4 and the provisions of this article are repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.
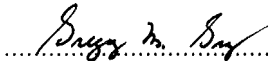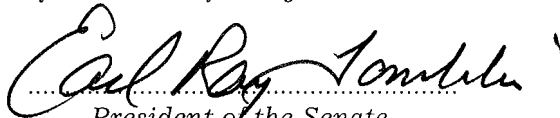
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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

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The within .......... approved .......... this the .....13ᵗʰ.....

Day of .....March........................................., 2003.

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Governor

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